

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES FREEMAN,	:	CIVIL ACTION
	:	NO. 19-4333
Petitioner,	:	
v.	:	
	:	
MARK CAPOZZA, et al.,	:	
	:	
Respondents.	:	

**ORDER**

**AND NOW**, this **8th** day of **February, 2021**, after careful and independent consideration of the Report and Recommendation of United States Magistrate Judge Marilyn Heffley (ECF No. 37) and Petitioner's objections thereto (ECF Nos. 40, 42),<sup>1</sup> it is hereby **ORDERED** as follows:

1. The Report and Recommendation (ECF No. 37) is **REJECTED** in accordance with the accompanying Memorandum;
2. Petitioner's objections to the Report and Recommendation (ECF Nos. 40, 42) are **SUSTAINED** in accordance with the accompanying Memorandum;
3. The Petition for a Writ of Habeas Corpus (ECF No. 1) is **GRANTED**, and the Commonwealth of Pennsylvania shall

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<sup>1</sup> The Court undertakes a de novo review of the portions of the Report and Recommendation to which a party has objected. See 28 U.S.C. § 636(b)(1); *Cont'l Cas. Co. v. Dominick D'Andrea, Inc.*, 150 F.3d 245, 250 (3d Cir. 1998). The Court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

either release or retry Petitioner within 120 days of entry of this Order; and

4. The Clerk of Court shall mark this case **CLOSED**.

**AND IT IS SO ORDERED.**

/s/ Eduardo C. Robreno  
**EDUARDO C. ROBRENO, J.**